

is going to be divided the way any Senator currently thinks it should be. It is going to be done by a committee that has been doing it for many years.

Those are my two thoughts for the day. I have used about 5 minutes on each, and I talked faster than I normally do because I did not want to stay down here too long. Other Senators want to speak. I repeat: If we cannot give the American taxpayers a cut in their taxes when in the past 6½ years the tax take of America, what we have taken from the taxpayers, is up 58 percent—got it?—the tax receipts of America in the last 6 years 9 months is up 58 percent. The average check increase for American working people is up 11 percent, and the cumulative increase of Government annually over 7 years—6 years 9 months—is 22.

Who was cut short? A 58-percent tax increase, 22-percent growth in Government, 11-percent growth in the paychecks of Americans. They need some of their money back. That is what that issue is about. If not now, when? On education, wait and see. We will do better than the President. It will be hard to convince the President, and he will have something to say about it. We ought to put up a nice big board and add up the numbers when we are finished with appropriations. We will do better than he did.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

#### ORDER OF PROCEDURE

Mr. JOHNSON. Madam President, I ask unanimous consent to address the body in two parts: one for an initial 1 minute and the second for the remaining 15 minutes.

The PRESIDING OFFICER. Is there objection? Is the Senator requesting he have the time until 3:30?

Mr. JOHNSON. It is my understanding that 3:30 is the scheduled time to commence debate on the education resolutions; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. JOHNSON. So I have until 3:30?

The PRESIDING OFFICER. The Senator is correct.

Mr. JOHNSON. I ask unanimous consent, then, to consume the remainder of the time available until 3:30.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### A WISE MOVE

Mr. JOHNSON. Madam President, first I will speak in response to what I regard as the commonsense statesmanship demonstrated on the part of the President with his veto of the Republican tax bill. There is an acknowledgment that there is around \$1 trillion that could come into the Treasury over the next 10 years, over and above that required for Social Security.

It was wise on the President's part to say, first of all, we ought to be very prudent about whether that trillion dollars will actually materialize or not. It is based on assumptions that may or may not come true. If they do come true, we should prolong the life of Medicare and pay down existing debt.

Everywhere I go in South Dakota people of both political stripes tell me: Pay down the debt, keep interest rates down, make our economy grow, and if you still have dollars left, make key investments in education, in economic development, child care and health care, and then if there are some resources remaining, do give some tax relief.

The President has submitted a request for \$250 million targeted to middle-class and working families, the families that need it most. I believe that veto is a wise move. We ought to go on to a negotiated end to this budget dilemma that will be bipartisan in nature and will be much more deliberative, much more thoughtful, and much wiser about how to use \$1 trillion that may or may not materialize.

#### PRESCRIPTION DRUG FAIRNESS FOR SENIORS ACT OF 1999

Mr. JOHNSON. Madam President, the second issue I want to talk about this afternoon is the issue of prescription drug costs. I am going to have to edit my remarks due to time constraints more than I really prefer, but I do want to talk about the prescription drug costs we face in this Nation.

American seniors 65 or older make up only 12 percent of our population but consume, understandably, 35 percent of all prescription drugs. Studies have shown that the average senior citizen takes more than 4 prescription drugs per day and fills an average of 18 per year. Costs have skyrocketed in recent years, increasing an estimated 17 percent last year alone.

What impact has this drug price increase had on senior citizens? It has been catastrophic for all too many. A survey completed in 1993 reported that 13 percent of older Americans say they literally are choosing between buying food or their prescription drugs.

Sadly, I hear the same story everywhere I go in my home State. Thirty-five percent of the Medicare population, equivalent to 13 million people, have no prescription drug benefits of any kind under any kind of insurance plan. Seniors sometimes fail to realize that the Medicare program itself contains no prescription drug benefit.

I recently requested a South Dakota study of prescription drug prices for seniors in our State, a study that I asked the Government Reform and Oversight Committee of the other body to conduct, comparing the prices our seniors pay compared to favored customers such as HMOs, the Federal Gov-

ernment, and large insurance companies.

I ask unanimous consent that the detailed summary of the study be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### PRESCRIPTION DRUG PRICING IN SOUTH DAKOTA: DRUG COMPANIES PROFIT AT THE EXPENSE OF OLDER AMERICANS

(Minority Staff Report House Committee on Government Reform U.S. House of Representatives, July 31, 1999)

#### EXECUTIVE SUMMARY

This staff report was prepared at the request of Senator Tim Johnson of South Dakota. In South Dakota, as in many other states around the country, older Americans are increasingly concerned about the high prices that they pay for prescription drugs. Mr. Johnson requested that the minority staff of the Committee on Government Reform investigate this issue. This report is the first report to quantify the extent of prescription drug price discrimination in South Dakota and its impact on seniors.

Numerous studies have concluded that many older Americans pay high prices for prescription drugs and have a difficult time paying for the drugs they need. This study presents disturbing evidence about the cause of these high prices. The findings indicate that older Americans and others who pay for their own drugs are charged far more for their prescriptions drugs than are the drug companies' most favored customers, such as large insurance companies health maintenance organizations, and the federal government. The findings show that senior citizen in South Dakota paying for his or her own prescription drugs must pay, on average, more than twice as much for the drugs as the companies favored customers. The study found that this is an unusually large price differential—more than five times greater than the average price differential for other consumer goods.

It appears that drug companies are engaged in a form of "discriminatory" pricing that victimizes those who are least able to afford it. Large corporate, governmental, and institutional customers with market power are able to buy their drugs at discounted prices. Drug companies then raise prices for sales to seniors and others who pay for drugs themselves to compensate for these discounts to the favored customers.

Older Americans are having an increasingly difficult time affording prescription drugs. By one estimate, more than one in eight older Americans has been forced to choose between buying food and buying medicine. Preventing the pharmaceutical industry's discriminatory pricing—and thereby reducing the cost of prescription drugs for seniors and other individuals—will improve the health and financial well-being of millions of older Americans.

#### A. Methodology

This study investigates the pricing of the five brand name prescription drugs with the highest sales to the elderly. It estimates the differential between the price charged to the drug companies' most favored customers, such as large insurance companies, HMO's, and certain federal government purchasers, and the price charged to seniors. The results are based on a survey of retail prescription drug prices in chain and independently owned drug stores throughout South Dakota. These prices are compared to the prices paid

by the drug companies' most favored customers. For comparison purposes, the study also estimates the differential between prices for favored customers and retail prices for other consumer items.

#### B. Findings

The study finds that: Older Americans pay inflated prices for commonly used drugs. For the five drugs investigated in this study, the average price differential was 121% (Table 1). This means that senior citizens and other individuals

who pay for their own drugs pay more than twice as much for these drugs than do the drug companies' most favored customers. In dollar terms, senior citizens must pay \$50.33 to \$94.12 more per prescription for these five drugs than favored customers.

TABLE 1.—AVERAGE RETAIL PRICES IN SOUTH DAKOTA FOR THE FIVE BEST-SELLING DRUGS FOR OLDER AMERICANS ARE MORE THAN TWICE AS HIGH AS THE PRICES THAT DRUG COMPANIES CHARGE THEIR MOST FAVORED CUSTOMERS

Prescription drug	Manufacturer	Use	Prices for favored customers	Retail prices for S. Dakota seniors	Differential for S. Dakota senior citizens	
					Percent	Dollar
Zocor .....	Merck .....	Cholesterol .....	\$27.00	\$100.44	272	\$73.44
Prilosec .....	Astra/Merck .....	Ulcers .....	59.10	110.82	88	51.72
Norvasc .....	Pfizer Inc .....	High Blood Pressure .....	59.71	110.04	84	50.33
Zoloft .....	Pfizer, Inc .....	Depression .....	115.70	209.82	81	94.12
Procardiz XL .....	Pfizer Inc .....	Heart Problems .....	68.35	121.88	78	53.53
Average price differential .....					121%	

For other popular drugs, the price differential is even higher. This study also analyzed a number of other popular drugs used by older Americans, and in some cases found even higher price differentials (Table 2). The drug with the highest price differential was Synthroid, a commonly used hormone treatment manufactured by Knoll Pharmaceuticals. For this drug, the price differential for senior citizens in South Dakota was 1,469%. An equivalent quantity of this drug

would cost the manufacturers' favored customers only \$1.75, but would cost the average senior citizen in South Dakota over \$27.00. For Micronase, a diabetes treatment manufactured by Upjohn, an equivalent dose would cost the favored customers \$10.05, while seniors in South Dakota are charged an average of \$47.24. The price differential was 370%.

Price differentials are far higher for drugs than they are for other goods. This study

compared drug prices at the retail level to the prices that the pharmaceutical industry gives its most favored customers, such as large insurance companies, government buyers with negotiating power, and HMOs. Because these customers typically buy in bulk, some difference between retail prices and "favored customer" prices would be expected.

TABLE 2.—PRICE DIFFERENTIALS FOR SOME DRUGS ARE MORE THAN 1,450%

Prescription drug	Manufacturer	Use	Prices for favored customers	Retail prices for S. Dakota seniors	Price differential for S. Dakota seniors
Synthroid .....	Knoll Pharmaceuticals .....	Hormone Treatment .....	\$1.75	\$27.46	1,469%
Micronase .....	Upjohn .....	Diabetes .....	10.05	47.24	370%

The study found, however, that the differential was much higher for prescription drugs than it was for other consumer items. The study compared the price differential for prescription drugs to the price differentials on a selection of other consumer items. The average price differential for the five prescription drugs was 121%, while the price differential for other items was only 22%. Compared to manufacturers of other retail items, pharmaceutical manufacturers appear to be engaging in significant price discrimination against older Americans and other individual consumers.

Pharmaceutical manufacturers, not drug stores, appear to be responsible for the discriminatory prices that older Americans pay for prescription drugs. In order to determine whether drug companies or retail pharmacies were responsible for the high prescription drug prices paid by seniors in South Dakota, the study compared average wholesale prices that pharmacies pay for drugs to the prices at which the drugs are sold to consumers. This comparison revealed that the pharmacies in South Dakota appear to have relatively small markups between the prices at which they buy prescription drugs and the prices at which they sell them. The retail prices in South Dakota are actually below the published national Average Wholesale Price, which represents the manufacturers' suggested price to pharmacies. The differential between retail prices and a second indicator of pharmacy costs, the Wholesale Acquisition Cost, which represents the average price pharmacies actually pay for drugs is only 13%. This indicates that it is drug company pricing policies that appear to account for the inflated prices charged to older Americans and other customers.

Mr. JOHNSON. Madam President, the results of the South Dakota study are consistent with studies in other States finding that seniors in South Dakota pay inflated prices for commonly used drugs. In fact, seniors are paying twice the amount per prescription compared to the price the pharmaceutical companies sell their drugs to their favored customers. In fact, we found some individual prescriptions where the price differential was as high as 1,469 percent for the same drug. These price differentials are far higher for prescription drugs than for any other consumer good.

The average price differential for the five top selling prescription drugs for seniors is 121 percent, while the price differential for other items considered daily essentials for the consumer is only 22 percent.

The study also indicates that pharmaceutical manufacturers—not the drugstores, not the pharmacies—appear to be responsible for this huge differential. South Dakota pharmacies have relatively small mark-ups, between the prices at which they buy the drugs and the prices at which they sell them.

The question is, Where do we go from here? There is talk about a Medicare add-on for prescription drugs. I hope we can go down that road. Quite frankly, a bipartisan agreement about how to pay for it and administer it simply has not

been reached. In the interim, there are alternatives.

The Prescription Drug Fairness for Seniors Act of 1999, which I have sponsored with Senator KENNEDY, will provide a mandate—without the use of tax dollars, or any new Federal bureaucracy—that the pharmaceutical industry sell prescription drugs at the same price to Medicare beneficiaries as they sell to their favored customers. No more discrimination. If the Prescription Drug Fairness for Seniors Act was enacted, we could reduce the cost of prescription drugs available to seniors by approximately 40 percent. There would be no bureaucracy, no tax dollars, and a huge benefit for seniors all over America. Our pharmacists would use the existing pharmaceutical distribution system and not create any new bureaucracy.

It is estimated that we will reduce drug prices for seniors by approximately 40 percent. There will be no more devastating choices among groceries, rent, and prescription drug costs.

I am pleased our bill is gaining endorsement and currently has the support of 10 of our colleagues, including Senators DASCHLE, DODD, DORGAN, FEINGOLD, HOLLINGS, INOUE, LEAHY, KERRY, WELLSTONE, and BINGAMAN. Earlier this year, Representatives TOM ALLEN, JIM TURNER, MARION BERRY, and HENRY WAXMAN were joined by 61

of their colleagues when they introduced the House version of this bill, H.R. 664. They have now over 120 co-sponsors.

Several organizations endorsed our legislation, some of which include the National Committee to Preserve Social Security and Medicare, TREA Senior Citizens League, Consumer Federation of America, and Families USA Foundation. Many South Dakota groups have also endorsed our bill, including the South Dakota Coalition of Citizens with Disabilities and the North Central Chapter of the Paralyzed Veterans of America. We now have well over 30 organizations actively supporting this legislation.

Currently, there are several prescription drug proposals in Congress. We ought to have hearings on this issue, and we ought to go forward as aggressively as we can.

Madam President, there is no need to wait. We can act on this now. We can give seniors now the benefit of this 40 percent reduction in prescription drug costs that they deserve and need.

What an irony it is that so many of our seniors wind up not taking their prescription drugs in order to save money and then fall ill with an acute illness and wind up in the emergency room, and then Medicare picks up the tab. Wouldn't it be better if we can find a way to make sure seniors can afford the prescription in the first place to avoid that kind of acute illness, that emergency room visit? The taxpayers will gain, the dignity of the seniors will gain, their physical health will gain. All Americans would be better off with the immediate passage in this Congress of the Prescription Drug Fairness for Seniors Act of 1999.

I yield back such time as may remain.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. What is the situation regarding time?

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is closed.

The Senate will now resume consideration of Senate Resolution 186 and Senate Resolution 187, which the clerk will report.

Mr. BYRD. Madam President, I ask unanimous consent that I may proceed as in morning business for not to exceed 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### BUDGET CAPS AND EDUCATION FUNDING

Mr. BYRD. Madam President, shortly we will be debating two resolutions re-

garding education funding. Though there are differences in the approaches taken in the resolutions, the bottom line is similar—namely, this Senate and this Congress need to support education, and we need to find sufficient funding to meet our obligations to America's students. We need to support our struggling schools as they attempt to provide safe, disciplined environments in which our youth can learn both the fundamentals of history, literature, mathematics, and science, as well as the emerging fields of the next century—computers, satellite communications, advanced electronics and other information technologies that are reshaping the American workplace.

On this bottom line, we all agree. The difficult part in this difficult appropriations cycle is, how do we get there? Our funding levels are too low to meet the administration's request, too low to meet the needs that we can all see and agree need to be met, but we are constrained by a budgetary straightjacket imposed in 1997. All year, I have advocated breaking the budgetary caps in order to meet our most pressing needs, but until that happens, the Appropriations Committee must play the cards it has been dealt. This evening, the Appropriations Subcommittee on Labor, Health and Human Services, and Education, will meet to mark up an appropriations bill that contains funding for education, among other things. When all is said and done, Madam President, I am very proud of the work of our Committee on Appropriations this year. I have served with many great Senators and I have served with a number of great chairmen of the Committee on Appropriations. None has handled their responsibilities any better than has our current Appropriations Committee Chairman, Senator STEVENS of Alaska. He has worked closely with me throughout his tenure as chairman of the committee in as nonpartisan a manner as anyone I have ever worked with. We have handled these very difficult matters as best we could to the benefit of all Senators and for the American people. In so doing, despite these crushing spending caps, we have been able to pass in the Senate most of the appropriations bills. The final bill, namely the Labor-HHS appropriations for FY 2000, will be marked up in subcommittee this evening and, in all likelihood, in the full Appropriations Committee tomorrow.

Madam President, frankly, I see no intellectually honest way to adequately provide for education without breaking the budgetary caps.

I know neither side wants to suggest that the caps be broken. Each side wants the other side to be the first. I have no hesitancy to say how I feel because I am interested in education. I am interested in meeting the needs of the country and meeting the needs of

the people. If it cannot be done without breaking the caps, then so be it.

I cannot support these two resolutions, not because I disagree with their intent, but because I cannot voice my support for increasing education funding on the one hand while in the same breath saying that the budget caps cannot be broken. Education is important. If it is important, it is worth breaking the budget caps. And it is. It is worth breaking the budget caps. Budgetary gimmicks that add months to the fiscal year or that take funds from other critical programs like heating assistance for the poor and the elderly will not hold up over time. They are very frail reeds, very weak reeds, to which to cling in the face of hurricane force winds of need.

Madam President, I yield the floor.

#### EXPRESSING THE SENSE OF THE SENATE REGARDING REAUTHORIZING THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

#### TO EXPRESS THE SENSE OF THE SENATE REGARDING EDUCATION FUNDING

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. Res. 186 and S. Res. 187, which the clerk will report.

The legislative assistant read as follows:

A resolution (S. Res. 186) expressing the sense of the Senate regarding reauthorizing the Elementary and Secondary Education Act of 1965.

A resolution (S. Res. 187) to express the sense of the Senate regarding education funding.

The PRESIDING OFFICER. There will now be a total of 2 hours debate on the two resolutions under the control of the two leaders.

Mr. BYRD. Madam President, I suggest the absence of a quorum and ask unanimous consent that the time be charged against each side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. HUTCHINSON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arkansas is recognized.

Mr. HUTCHINSON. Madam President, as I rode to the office this afternoon, I was listening to news accounts which were reporting that the President was making a series of speeches in which he was criticizing the congressional majority and their plans for education and education improvement in this country.